

5.0 CONSULTATION AND COORDINATION

5.1 Federal And State Agencies Consulted

North Dakota Health Department, Division of Air Quality, Bismarck, North Dakota
 State of North Dakota, State Historical Society, Bismarck, North Dakota
 State of North Dakota, Public Service Commission, Reclamation Division, Bismarck, North Dakota
 US Fish and Wildlife Service, North Dakota State Office, Bismarck, North Dakota
 Army Corps of Engineers, Bismarck, North Dakota

5.2 List Of Contributors And Reviewers

BLM North Dakota Field Office

Mike Nash Technical Review

BLM Montana State Office

Randy Heuscher Solid Minerals Coordination
 Rebecca Spurgin Coal Program Coordination
 John Thompson NEPA Coordinator
 Gary Smith Cultural Resources Coordination
 Gayle Sitter Wildlife Coordination

Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center

Floyd McMullen EIS Project Coordinator
 Foster Kirby Archaeologist

5.3 List Of Preparers

Name	Education/Experience	Responsibility
<i>BLM North Dakota Field Office</i>		
Lee Jefferis	M.S., B.S. Geology 30 years professional experience	DEIS Project Leader Water Resources
Allen Ollila	B.S. Chemical Engineering 26 years professional experience	FEIS Project Leader
Don Ruffedt	B.S. Resource Management (Soils) 30 years professional experience	Soils, Land Use/ Vegetation, Wildlife
Mary Ramsey	B.A. Communications 4 years of professional experience	Writer/Editor
Barry Williams	M.A., B.A. Anthropology 30 years professional experience	Cultural Resources
<i>BLM Montana State Office</i>		
Ed Hughes	B.S. Mineral Economics 30 years professional experience	Economics
Joan Trent	B.A. Psychology M.A. Environmental Science 30 years professional experience	Socioeconomics Environmental Justice
<i>BLM Wyoming State Office</i>		
Susan Caplan	B.S. Meteorology M.S. Air Resource Management 19 years professional experience	Air Quality /Climate

5.4 Tribal Organizations Consulted

Three Affiliated Tribes
Lower Brule
Standing Rock Sioux Tribe
Crow Creek Sioux Tribe
Fort Peck Tribe
Northern Cheyenne Tribe
Fort Belknap
Turtle Mountain Band of the Chippewa Indians
Oglala Sioux Tribe
Santee Sioux Tribe of Nebraska
Rosebud Sioux Tribe
Flandreau Santee Sioux Tribe
Yankton Sioux Tribe

5.5 Comments and Responses to Draft EIS

Introduction

Included in this section are comments received by the Bureau of Land Management and the Office of Surface Mining during the review period for the draft EIS. The Bureau of Land Management and the Office of Surface Mining thank all who took time to share their thoughts and inquiries. We have sought to incorporate, modify, and explain these within this document's text.

Some writers addressed large-scale ecological concerns such as acid rain and the global warming. These phenomena are beyond the scope of this document. Some comments were expressions of social values for a particular alternative and provided no substantive information for the analysis. These comments do not require a response; they are included to show convictions and values the public shared.

Responses

The below numbered responses correspond to the numbers located adjacent to the accompanying comment letters within this section. **Bold text** at the beginning of the response demonstrates that the response is to more than one comment letter.

1. **Develop an alternative that protects additional cultural resources within the WMA.**

The alternatives are based on the significant impacts to cultural resources. The preferred alternative parallels the Programmatic Agreement and Management Plan done in consultation with tribal and preservation advocates over a four-year period. Alternative C (Preferred) has been modified to preserve additional stone features within the WMA since the DEIS.

2. **Develop methods for further protecting unmarked burials.**

To date three unmarked burials have been identified within the WMA. Additional proactive identification of unmarked burials has been implemented in Phase II of the Management Plan. These include sensitive excavations at probable locations. Discovered remains will be left in place until it is necessary to relocate. As NAGPRA does not apply to private or state lands, all unanticipated discoveries will follow applicable North Dakota Century Code.

3. **Compliance with Section 106 of the NHPA of 1966 as amended.**

There has been considerable confusion over the protection of cultural resources as affected by the State of North Dakota's Public Service Commission issuing a permit for the mining of private and state coal and the leasing of federal coal. Compliance with Section 106 applies only to the leasing of the federal coal. As there are no federal lands involved in the permit, all the private and state coal may be mined through the PSC's permitting process. Under that process, proposed cultural resource mitigation is reviewed by the State Historical Society, and an approved cultural resource plan is required under N.D.C.C. § 38-14.1-30. There is no federal involvement in that process. The leasing of federal coal requires the federal agencies (BLM and OSM) to take into account the effects of their undertaking on historic properties and afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment, i.e. the Section 106 process.

During the spring of 2000, BLM, OSM, Council, PSC and SHPO (State Historical Society) discussed how the two processes could be intertwined to provide the best-faith effort to take into the account the effects of their separate processes or undertakings on historic properties within the WMA. It was determined that all agencies would look at the entire WMA and develop a single cultural resource management plan regardless of the determination of what coal was mined. Thus, for purposes of Section 106, the WMA became the APE (area of potential effects) for leasing of federal coal. This paralleled the PSC permit area.

In 2000, The Coteau Properties Company provided the agencies with an inventory of archeological resources, and in 2001, it provided a report concerning the tribal significance of sites within the WMA. This second report came from ethnographic evidence and conversations with tribal peoples. Also in 2001, a report on the evaluation of the archeological significance of the sites was completed. That evaluation tested a small sample of approximately 1,700 stone features. In January/February of 2002, OSM, BLM, and SHPO determined which sites were eligible for listing on the National Register of Historic Places. Thirty-nine (39 of 200) prehistoric sites were determined eligible for their archeological information, and one (1 of 50) historic period site was determined eligible for its architectural value. Two other

sites were to be avoided, an effigy and the only recorded unmarked burial. After additional consultation, the effigy was determined to be a Traditional Cultural Property using the criterion of history and design.

In December of 2002, the Adverse Effect determination was finalized, and in January the Council agreed to formally participate in the Section 106 process. Throughout the process a “working group” consisting of the cultural offices of the Three Affiliated Tribes, Fort Peck Assiniboine and Sioux Tribes, the Tribal Historic Preservation Office Standing Rock Sioux Tribe, BLM, OSM, Council, PSC, SHPO, and the National Trust for Historic Preservation held meetings and conversations concerning the process, reports, eligibilities, TCPs, etc. In January of 2003, the ninth version of a Programmatic Agreement and the fourth version of a cultural resource Management Plan were also sent to Fort Belknap, Oglala Sioux Tribe, Rosebud Sioux Tribe, Flandreau Santee Sioux Tribe, Turtle Mountain Band of Chippewa Indians, Northern Cheyenne Tribe, Crow Creek Sioux Tribes, and the Lower Brule for comment. In August of 2003, Coteau had signed a final version of the Programmatic Agreement and associated Management Plan. The following month BLM, OSM, PSC, and SHPO signed the agreement. With the signatures of Coteau and the State Historic Society, a CRMP was in place for the state to issue the PSC permit for the WMA. Major components of the Management Plan include mitigation through archeological investigation of historic properties that will be destroyed by mining and preservation of stone ring and cairn features through donation of lands to the North Dakota Indian Cultural Education Trust (see #6).

In March of 2004, Coteau submitted a preliminary report of the Phase I investigations required by the Management Plan. While the work had completed the requirements of the Management Plan’s Phase I, BLM, OSM, SHPO and the Council requested additional investigations of the prehistoric settlement patterns prior to finalizing the Phase II investigations. Coteau agreed to fund those investigations done by an outside investigator, the University of Iowa. On May 4, 2004, the Council signed the Programmatic Agreement.

Additional changes were made to the Programmatic Agreement and Management Plan early in 2005 because of the inability to acquire certain lands referenced in the DEIS for donation to North Dakota’s Indian Cultural Education Trust. The modification was developed in continued consultation with the lessee, the North Dakota State Historic Preservation Office, The Advisory Council on Historic Preservation, Three Affiliated Tribes, Fort Peck Assiniboine and Sioux, the Standing Rock Sioux Tribe, and Public Service Commission as part of National Historic Preservation Act compliance for this undertaking.

4. Clarify each alternative’s mitigation measures.

BLM has rewritten portions of the cultural section to clearly define what will be affected within the WMA and what will be donated to the Indian Cultural Education Trust from outside the WMA (see Table 4.3). BLM has adjusted site numbers and effects as additional information has been received from Coteau and the State Historical Society.

5. Traditional Cultural Properties defined.

Traditional Cultural Properties (TCPs) are the most misunderstood and hardest to define category of historic properties. They were originally to designate such significant natural features as Bear Butte, Devils Tower, etc., which were an integral part of a community’s folkways and did not easily fit into the already defined National Register property types. They are not synonymous with features having sacredness. TCPs are generally defined as a property eligible for inclusion in the National Register of Historic Places by association with an event or person, have architectural significance, or are important in yielding significant information. They must have defensible boundaries and integrity. They must be associated with the cultural practices or beliefs of a living community, rooted in the community’s history, and important in maintaining the continuing cultural identity of the community. TCPs must be a tangible place important to the community today and must have been important for 50 years or more.

BLM does not have sufficient information to designate the estimated more than 1 million stone features originally found across the Great Plains as TCPs. If we look at the defensible boundaries alone, we cannot use the artificially constructed WMA as a boundary; it has no historic integrity. The stone features within the WMA individually do not meet the criterion of the National Register and additional burdens to be TCPs. However, one TCP has been identified within the WMA, the turtle effigy. It was known to members of the Three Affiliated Tribes and utilized in past memory. That is important. TCPs are not “found by pedestrian survey,” they are locations that are known to the community.

The Programmatic Agreement and Management Plan provides flexibility, allowing for the Management Plan to evolve as new information surfaces. The plan can accommodate information of additional TCPs as brought forth and documented by any cultural community.

6. Trust and Donor Agreements explained.

The Indian Cultural Education Trust was written into law by the North Dakota Legislature during the 2003 legislative session. The trust provides a mechanism for donation of land and/or monies for Indian cultural education. It is being used as an innovative response to the significant loss of the stone features found throughout the WMA. Not only does it provide for some preservation of stone features within

and outside the WMA, but it also provides access to these features. The trust also provides significant money for cultural education. How and what is done is left to the Tribe(s) and the donor (the lessee) to decide. It is an offer by the lessee not the federal government. As long as the donation meets the requirements of the Trust and is consistent with the intent of the Programmatic Agreement and Management Plan, the donation will contribute to the federal responsibility for compliance with the National Historic Preservation Act. While part of the mitigation plan, it is not necessary for the federal government's obligation to meet the requirements of the National Historic Preservation Act. The lands will be donated to the State of North Dakota and managed by the North Dakota State Land Board.

7. Treaty Rights.

All federal lands and mineral interests involved in the current coal lease application are open to leasing and development under the North Dakota RMP and in accordance with the Mineral Leasing Act of 1920 and the Federal Coal Leasing Amendments Act of 1976 (FCLAA). Resolving treaty disputes is outside the scope of the EIS process. The EIS analyzes and discloses environmental impacts to resources of concern to Native Americans. However, evaluating whether those resources are covered by the 1868 Fort Laramie Treaty or any other treaty, or whether impacts to those resources violate specific treaty rights, is beyond the scope of the environmental analysis.

8. Importance of the coal mining industry to the local and regional economy.

Socioeconomics sections of this document (Sections 3.11 and 4.10) have been revised to acknowledge the contributions of the coal mining industry to the local and regional economy. This includes employment, personal income, and economic activity in the local communities, school districts, and the Bismarck Trade Area. It is also acknowledged that the Freedom Mine contributes to the operating budgets of the county, cities, and school districts through the coal severance taxes returned to Mercer County.

9. Dependence of the operation of the Freedom Mine on federal coal reserves.

A number of comments imply that the continued operation of the Freedom Mine is dependent upon obtaining the applied-for federal coal reserves, or that the mine would close prematurely without the federal lease. Federal coal production from 1997-2001 accounted for less than 5 percent of the total coal mined in Mercer County. Mine-specific production data is not available; however, the Freedom Mine accounted for 92 percent of the County's average annual production over the period.

The mine has and will continue to supply coal to its existing customers with or without the federal lease. The recently-approved Surface Coal Mining Permit NACT 0201 allows

the mining of non-federal reserves in the WMA. Acquisition of the federal coal reserves would allow the maximum economic recovery of the non-federal reserves. However, there are adequate reserves of coal available in the Renner's Cove coal deposit and the nearby Beulah and Hazen coal deposits to supply the contracts throughout the expected life of the customer plants. This is based upon the BLM's West-Central North Dakota Management Framework Plan, July 1981. At that time there was an estimated 700 million tons of federal coal that could be mined, including 27,971 acres, in these deposits alone. Federal coal ownership accounts for 27 percent of the total mineral acres in Mercer County. However, because of the ownership pattern the percentage of federal coal in the identified deposits would likely be in the 35-40 percent range. If so, there were an estimated 1.75 to 2 billion tons of non-federal reserves in the deposits.

10. Cultural Programmatic Agreement does not obligate BLM to lease coal.

The EIS provides a range of alternatives from which the decision maker will make a selection. The Programmatic Agreement and Management Plan are parts of compliance with the National Historic Preservation Act. They are also the basis on which the Preferred Alternative (Alternative C) is developed. But, signing them does not obligate the BLM to lease coal.

11. BLM decision concerns the leasing of federal coal.

Expansion of the Freedom Mine to include private and state coal reserves was approved by the North Dakota Public Service Commission on April 14, 2004. The BLM must decide whether to lease tracts of federal coal (beneath private surface) within the approved permit area.

12. Reply to Coteau's DEIS review.

Appropriate content and format changes have been made to the FEIS as specified in Coteau's June 29, 2004, letter.

13. Aquifers.

The DEIS does not mention "degradation of water quality 1-2 miles from the proposed mine sites." The DEIS (p. 32, § 4.4, Groundwater) "Low permeability of lignite aquifers suggests that measurable declines in groundwater levels would not extend more than one to two miles from an active mine site." A measurable decline in groundwater level means the water table would be lowered in aquifers near the mine. Water quality in "surrounding rivers and Lake Sakakawea" would not be threatened by seepage of groundwater into an open pit.

TMDL (Total Maximum Daily Load, the maximum amount of a pollutant that a water body can receive and still meet water quality standards) applies to pollution of surface waters. As the DEIS indicates (§ 4.4, Surface Water), surface waters would pass through sediment-control ponds before exiting the permit area. Coteau asserts "discharges from

sedimentation ponds on the mine site have average lower sediment concentrations than monitored surface water runoff from surrounding undisturbed lands.” (See Letter No. 21 at point No. 41).

The aquifers of significance in the WMA include shallow lignite beds of the Sentinel Butte Formation. Potentiometric maps of near-surface aquifers in the permit area indicate that water-bearing strata receive water from WMA highlands and distribute it as spring and seeps in and near the West Mine Area. This mapping indicates that groundwater would not affect Lake Sakakawea and the surrounding rivers.

14. Mercury.

Mercury emission section incorporated into 3.4 Air Quality and Climate.

15. Wetlands.

Coteau has addressed the loss of wetlands through mitigation by increasing the size of a wetland complex on reclaimed land in S1/2 § 6, T. 145 N., R. 87 W. A total of 36 acres of seasonal wetlands will be added to the wetland complex, and 40 acres of additional native grassland will be established near the wetland. The reclaimed wetlands represent a net gain in wetland acreage at the Freedom Mine.

May 22, 2004

Coal Team, Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Greetings:

I am writing to comment on the Coteau Properties Company mining proposal for western North Dakota, involving the expansion of the Freedom Mine in Mercer County. Please be aware that this area is sacred to many different Indigenous Nations. The effort from an Indigenous perspective is not just to preserve and protect. There are consequences for disturbing such places. These are the consequences caused by the lack of respect.

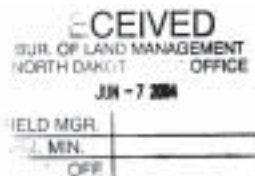
A total of 1,343 sites would be destroyed in this plan. According to Byron Olson, the Tribal Archaeologist for the Standing Rock Sioux Tribe, "...the proposed project will destroy more cultural resources than any other current project in the United States." This also includes the destruction of more sites eligible for the National Register of Historic Places than any other project. Olson stated, "the mine expansion will completely destroy twenty-seven NHP sites."

Other impacts caused by the surface mining need to be addressed as well. These include disruption of key wildlife habitat, the increase of acid rain which would be falling on farms and ranches in North and South Dakota, and long term implications such as the contribution of the coal mine to the destruction of the atmosphere and the resultant increase in global warming.

What stands out in my mind is the total destruction of over 1,300 sacred burial sites which this proposal would accomplish. This is appalling. Where is the respect?

It is my understanding that the Coteau company is trying to get The Three Affiliated Tribes (Mandan, Hidatsa, and Arikara), the Fort Peck Tribes, and the Standing Rock Sioux Tribe to sign a programmatic agreement. Other Tribes such as the Oglala Sioux Tribe, the Rosebud Sioux Tribe, and the Yankton Sioux Tribe are being asked to concur.

The agreement creates "the establishment of an Indian Cultural Education Trust as established by (ND) State legislation and implemented under the terms of a donor agreement among The Three Affiliated Tribes, the Fort Peck Tribes and Coteau..." but leaves out other Sioux Tribes. This is a classic divide and conquer tactic in waiting. As this area is within the recognized treaty territory of the larger Sioux Nation, the Ojibwe-Sakowin word is starting to get out, as the Lakota and Dakota tribes from Canada also have vested interests in these sacred places. Their ancestors are also buried here. The Dakota tribes in Minnesota and South Dakota will need to be included, not as well as the Lakotas of South Dakota.



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The agreement calls for setting aside less than one percent (1%) of the area for the stockpiling of the stones that are removed from the sacred sites: stone circles, effigies, and burial mounds. Coteau offers to put plaques at this set-aside corner that explain what was removed and destroyed. As an analogy, imagine if there were only 100 graves in Arlington National Cemetery, and Americans were asked to concur with an agreement to destroy 99 of them, and leave only one grave to remember the 99 that were destroyed. Obviously this would be outrageous. However, this is exactly what is going to happen in the Coteau West Mine Area, only worse.

Not only will burial sites be destroyed, but sacred places and archaeological sites that are irreplaceable will disappear. Sacred sites cannot be replaced, and the Coteau's attempts at placation amount to insults.

I have learned that Doug Burger from the Bureau of Land Management has stated, "it is our expectation that a programmatic agreement and management plan will be signed prior to our issuing a draft EIS..." As a federal official, he is bound to take an unbiased position until all the federal processes are completed. From Mr. Burger's statement, it would seem he is clearly biased in favor of the Coteau project. The American public is beginning to become clearly aware of the classic maltreatment of Indigenous people by large companies and federal officials when sacred sites and burial mounds are in the way of making money.

At the heart of this issue is the matter of respect. Sacredness may be intangible, but this does not mean it is nonexistent. The ancestors of the Indigenous Nations were here for thousands of years. They left these sites as guides for behavior and places for prayer. There were reasons why more than 1300 sacred places are found in this one area. Will the ancestors' messages left in rock circles and effigies be respected and left in place for the generations yet to come? When will concerns about burial places count? When will the understanding of sacredness be respected?

Sincerely,

Curtis A. Ryan
141 Manhattan Avenue #1
Brooklyn, NY 11211-2403
cryan14@nyc.rr.com

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Comment Form

Draft Environmental Impact Statement (4/2004)
Prepared by the Bureau of Land Management for
Coteau Properties Company Federal Coal Lease Application,
West Mine Area, Freedom Mine, Mercer County, North Dakota.
Comment period ends June 30, 2004

To ensure we can read your comments, please print or write legibly.

To Whom It May Concern,

I am the son of Ronald S. Little Owl. My name is Leon Bige Little Owl. In the beginning, Ronald S. Little Owl and George Iron Shield were asked to come, work, see, and interpret the sites. Both men were asked if it was okay to mine the areas under impact today and they said no. Today, all what was said in the beginning was pushed aside and it has come down to a small amount of money that all the enrolled members of the Three Affiliated Tribes (Mandan, Hidatsa, Arikara). The money mentioned about education would be entrusted into a state entity and people would of no tribal descendency would tell the stories about the areas. The native people would see no money. I remember the meetings before about the area and family and anger, malice would become stronger issues in the room. I feel there needs to be more time placed on the table about this issue. If you have any questions or concerns, contact me @ 701-938-4462. Email me @ ghostseed37@yahoo.com. Address is P.O. Box 265 Halliday ND 58136.

Signature:

Leon Little Owl

Date: June 22, 2004

May 26th, 2004

Coal Team, Bureau of Land Management
North Dakota Field office
2933 Third Avenue West
Dickinson, ND 58401



Dear Coal Team at the BLM in N.D.,
In the 1890's my great, great Grandparents settled in Williston, N.D., where I, myself, was born, VERY close to Mercer County. On behalf of my ancestors, myself and the many Indigenous Red Nations involved We are ALL UNDOUBTEDLY OPPOSED to the Coteau Properties CO. mining proposal for Western N.D. involving
(pg. 1)

the expansion of the Freedom mine.

Please be aware that this area is Sacred to the Indigenous Nations and affects the Entire World!

There are SERIOUS consequences involved in disturbing such sacred places.

A total of 1,349 sites would be destroyed in this mining plan. According to Byron Olson, the Tribal Archeologist for the Standing Rock Sioux Tribe, "...the proposed project will destroy more cultural resources than any other current project in the United States." This ALSO includes the destruction of more sites (pg.2)

eligible for the National Register of Historic Places than any other project. Olson stated, "the mine expansion will ~~completely~~ destroy twenty-one NRHP sites."

Other impacts caused by the surface mining need to be addressed as well. These include disruption of key wildlife habitat, the increase of acid rain which would be falling on farms and ranches in North and South Dakota, and long term implications such as the contribution of the coal mine to the destruction of the atmosphere and the resultant increase ^{and} (pg.3)

in global warming.

If the BLM of Western North Dakota goes through with this mining project There WILL BE SEVERE CONSEQUENCES that will affect the Entire World!

These Sacred sites, stone circles, effigies & burial mounds MUST remain just as they are, left by the Indigenous People thousands of years ago!

It is an APPALLING disgrace to think a "PLAQUE" in a "set aside corner" can replace and honor the actual Sacredness of these sites. (pg. 4)

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These sites MUST BE LEFT ALONE! They can not be replaced once moved!

RESPECT AND HONOR IS NEEDED!

I have learned that Doug BURGER from the BLM has stated, "It is our expectation that a programmatic agreement and management plan will be signed prior to our issuing a draft EIS..." As a federal official, he is bound to take an unbiased position until all the federal processes are completed. From Mr. Burger's statement, it would seem he is clearly biased in favor. (Pg. 5)

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of the Coteau project. The American public, including myself, is CLEARLY AWARE of the classic mistreatment of Indigenous people by large companies and federal officials when sacred sites and burial mounds are in the way of making money.

Though I live in Brooklyn, NY, now I too have roots and buried ancestors in North Dakota. My concern is SOO GREAT I will be contacting the New York Times and Spreading Awareness FAR AND WIDE!

This is not a local issue only. it is a national and International issue.

Respect and Protect these Sacred Sites! If this does not happen DANGERS are imminent!

Sincerely,

Kristin E. Ryan

Kristin E. Ryan
341 Manhattan Ave. #3
Brooklyn, NY 11211
Kristin5@NYC.ny.com

June 6, 2004
Sunday

Dear Mr. Burger,

I am writing to comment on the proposed plan to strip mine coal in Western North Dakota by the Coteau Properties Co. This strip mining plan must be stopped now!

The strip mining plan must be stopped because it will destroy 1,344 sacred sites of the Indian people and it will destroy key wildlife habitat. Further the plan should be stopped due to the long-term impact of burning coal and the destruction of the atmosphere through global warming and acid rain, which will impact the farming and ranching economy in a negative way in our nation.

Today is Sunday, a day that most Americans hold sacred. The strip mining plan will destroy religious sites and burial grounds of the first Americans, the Indians. This is wrong! The plan to set aside less than 1% of 17,000 acres of sacred ground is wrong.

The money changing Coteau Properties Company should be thrown out of the sacred sites. Stop the proposed strip mining plan now!

Sincerely,

Jayma Huff 605-634-0061
312 75 Ponderosa Drive 57015
Bismarck, North Dakota

3, 6

Red Heart Warriors Confederacy U.K

One Earth – One People – Many Spirits

MITAKUYE OYASIN

Christine Hewitt

talking.leaf@cwctv.net



David Watson

watsonfamily29@cwctv.net

18 North Street
Bury
BL10 3AD
Lancs
England
215 144

Care Team,
The Bureau of Land Management
North Dakota Field Office
2973 Third Avenue, NE,
Dickinson,
ND 58601

RECEIVED
BUREAU OF LAND MANAGEMENT
NORTH DAKOTA
OFFICE
JUN - 7 2004
FIELD MGR
ON
OFF

Dear Sirs,

It has come to my attention that the Coteau Properties Company is asking County plans and depending on whether coal strip mine which will destroy approximately 1244 Sacred Ancestral Indian Sites. These include burial sites and other religious sites which we cannot let the BLM take because they are holy. The proposed expansion will destroy more cultural resources than any other current project within the Grand Staircase. The proposed site also contains key wildlife habitat and this is totally unacceptable.

Cowdell have asked to let aside less than 1% of the over 600,000 acres of land around Grand Staircase and this is not an acceptable offer. The land must not be allowed to be taken over, sacred burial sites and present cultural and religious sites will be destroyed and are irreplaceable. All this is under the Grand Staircase which has been a holy site since the arrival of the first Americans. Wildlife in the country of the area. Please think about, Grand Staircase is a sacred site and must be protected from mining.

Yours sincerely

Christine J. Hewitt

RM 100 100

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One Earth – One People – Many Spirits RECEIVED

BUR. OF LAND MANAGEMENT
NORTH DAKOTA FIELD OFFICE
JAN - 1 2004

Christine Hewitt
Talking.leaf@cowtv.net



David Watson
watsonfamily29@cowtv.net

FIELD MGR. [initials]
APR. MGR. [initials]
OFF. [initials]

MR DOUG BURGER
FIELD MANAGER
COAL TEAM
BUREAU OF LAND MANAGEMENT
NORTH DAKOTA FIELD OFFICE
2933 THIRD AVENUE WEST
DICKINSON
NORTH DAKOTA 58601
U.S.A

DAVID WATSON
15 NORMANTON GROVE
HOLBECK
LEEPS
WEST YORKSHIRE
LS11 8LD
ENGLAND
31st MAY 2004

GREETINGS MR BURGER

WITH THIS LETTER COMES THOUGHTS AND PRAYERS FOR YOUR WELL-BEING.

SIR I WRITE TO YOU PERSONALLY AS THE FIELD MANAGER CONCERNING THE PROPOSED STRIP MINING AT COTEAU, NORTH DAKOTA.

AS ASSOCIATE DIRECTOR OF THE R.H.W.C... UK... I HAVE TO STATE WITH RESPECT, THAT THIS PROPOSAL I FIND HORRIFYING FOR A NUMBER OF REASONS.

- 1) IT FLAGRANTLY CONTRAVENES THE FORT LARAMIE TREATY OF 1868, WHICH WAS DEFINED AS "UNCEDDED INDIAN TERRITORY".
- 2) ASK YOURSELF THIS QUESTION, "DOES THIS PROPOSED EXPANSION BREACH THE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA)?"
- 3) A TOTAL OF 27 SITES OF HISTORIC IMPORTANCE WILL BE DESTROYED.
- 4) THIS PROPOSAL WILL DEVASTATE OVER 1,300 CULTURAL RESOURCES.

- 5) TO OFFER LESS THAN 2% OF AREA FOR STOCKPILING STONES, SHOWS A TOTAL LACK OF RESPECT AND AN INREVERENCE TO A CULTURE AND RELIGION OLDER THAN CHRISTIANITY.
- 6) THIS WHOLE AREA INCLUDES KEY WILDLIFE HABITAT.
- 7) THE DAMAGE TO THE ECO-SYSTEM WILL BE DEVASTATING AND BEYOND REPAIR.

IN CONCLUSION, I WOULD LIKE TO LEAVE YOU WITH TWO QUOTATIONS.

FEDERAL JUDGE LAWRENCE PIERSON SAID IN MAY 2003, IN THE CASE BETWEEN THE FEDERAL GOVERNMENT AND THE YANKTON SIOUX TRIBE... "IT WOULD BE A HARD THING FOR ANYBODY TO BE OUT PICKING UP HUMAN REMAINS OF YOUR ANCESTORS, NO MATTER WHAT YOUR FAITH".

THE NEW YORK HERALD 1870... "PALMER HAS VERY LITTLE EFFECT ON THE INDIAN CHARACTER... FAITHLESSNESS ON OUR PART IN THE MATTER OF TREATIES, AND GADSDEN SWINDLING OF THE INDIANS.. ARE AT THE BOTTOM OF ALL THIS INDIAN TROUBLE..

ON BEHALF OF MY RELATIONS IN NORTH DAKOTA I ASK YOU NOT TO ALLOW THIS EXPANSION TO TAKE PLACE.

IN TRUTH AND RESPECT.

MOST SINCERELY.

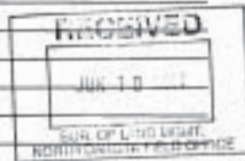
D. Watson

Comment Form
Draft Environmental Impact Statement (4/2004)
 Prepared by the Bureau of Land Management for
 Coteau Properties Company Federal Coal Lease Application,
 West Mine Area, Freedom Mine, Mercer County, North Dakota,
 Comment period ends June 30, 2004

To ensure we can read your comments, please print or write legibly.

I am concerned about the economic impact it will have on the
County if this 88 million ton of coal is not mined. This
amounts to about \$33 million tax and 70% returns to the
County. This is a huge revenue loss to the County.

8



Signature: Mary Murray Date: 6-9-2004
Mercer County Commission

Lee Jefferts, Project Manager
 Doug Burger, Field Manager
 Coal Team, Bureau of Land Management
 North Dakota Field Office
 200 Third Avenue West
 Dickinson, ND 58601

June 4, 2004

Re: Expansion of Coteau Mines

Dear Messrs. Jefferts and Burger,

The expansion of the Coteau Mines threatens to destroy several hundred sacred sites, burial grounds, and stone effigies. The destruction of these Cultural Resources is in direct conflict with the Section 106 Regulations, 36 CFR Part 800 of the National Historic Preservation Act and NAGPRA.

I totally oppose these proposed actions and urge you to issue a criterion of Adverse Effect to the Mine Expansion.

Further, Section 800.5 (d) requires consultation with "the SHPO/THPO and any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to identified historic properties. ... The agency official shall consider any views concerning such effects which have been provided by consulting parties and the public." Per this legislation, public hearings and comments from all affected tribes, including those from South Dakota, should be included.

Respectfully,

Mary Christine Martin, AIA
 570 Chandler Street NE
 Atlanta, GA 30307
 mcm@stella-hof.com

cc:
 Merlan E. Pasarsol, SHPO
 Tim Mertz, Sr., THPO
 Commissioner Susan E. Weffald
 Commissioner Kevin Crummett
 Commissioner Terry Clark
 Cherraine White Face



2, 3, 11

3

Sandra K. Bohrer, Auditor

Office of County Auditor

Lana Schneider, Deputy
Pam Drath, Clerk

Mercer County
PO Box 39
Stanton, ND 58571
Telephone 701-345-3292 Fax 701-745-3793
email: schneider@state.nd.us

June 16, 2004

Cool Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601



Dear Sirs:

This is in response to publication of an April 20, 2004 Draft Environmental Statement for leasing 90 million tons of federal coal at the West Mine Area, Freedom Mine. Although a significant amount of analysis was conducted on impacts to cultural resources, and proposed plans to mitigate such impacts, virtually no information was detailed on economic and social impacts if the coal were not leased. Some general comments that "local officials are concerned that less money would be available" (p. 43) are wholly inadequate and understate negative impacts by orders of magnitude. In addition, tables on pages 13 and 15 states that socioeconomic impacts from not leasing federal coal would be "moderate, minor, beneficial, short term". Nothing could be further from the truth. Impacts from not leasing federal coal should appropriately be described as major, negative and long-term.

The 90 million tons in question is equivalent to about six years of production at Coteau. This is six years of jobs, six years of local income circulating in the communities of Mercer County and six years of severance tax revenues returned to state, county and city governments, not to mention local school districts. In addition, we understand that mining around these tracts significantly raises the cost of mining adjacent coal, hurting the economics of local lignite in competition with other fuel sources.

Using real numbers, about two-thirds of Coteau's employees live in Mercer County, and bring home an annual payroll of about \$18 million. Imagine the economic disaster that would occur in Mercer County by losing hundreds of jobs and millions of dollars circulating in our communities. Businesses would fold and home values would plummet.

Page 2
Cool Team, Bureau of Land Management

Speaking of business, Coteau spends about \$9 million annually on goods and services in Mercer County. Closing the mine six years (or more) earlier than planned would result in more than \$50 million in lost business revenue in Mercer County alone.

Coal severance tax money is important to Mercer County. It helps us provide services, roads and other infrastructure vital to our county's residents. Based on current formulas, Mercer County's general fund receives 40% of the 70% share of coal severance tax returned to the county. The remainder goes to county cities and schools. At current rates, 90 million tons would provide \$9.5 million to the county general fund. Loss of these funds would be significant.

The impact of not leasing this federal coal would mean, at a minimum, a loss of six years of jobs, payroll, business revenue and coal severance tax from coal mined at Coteau, or a total economic impact to Mercer County exceeding \$165 million. Certainly this impact cannot be considered "minor" as described in the draft environmental impact statement.

Thank you for allowing us the opportunity to provide input into your draft environmental impact statement. We understand and appreciate the importance of protecting significant archaeological sites and important cultural resources, and believe current mining plans address these concerns. It's not unreasonable to expect the final environmental impact statement to give at least the same consideration to people living in Mercer County today as to the people who lived here hundreds of years ago.

Sincerely,

Wayne Entze

Mercer County Commission
Wayne Entze, Chairman
Lyle Latimer
Gary Murray

cc: Governor John Hoeven

pd
File: Coal Severance Tax



A proud heritage - A promising future

146 Main Street E. Box 717 Hazen, North Dakota 58545
Phone (701) 748-2550 Fax 748-2559
Email hazennd@westrv.com



June 16, 2004

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Ave West
Dickinson, ND 58601

RE: Draft Environmental Impact Statement for Leasing Federal Coal

Dear Sirs:

Thank you for the opportunity to submit comments regarding leasing Federal coal at The Coteau Properties Company Freedom Mine. The draft environmental impact statement provides a lot of information on archaeological sites and impacts and preservation. However, the draft provides virtually no information about the positive socioeconomic impacts to local towns from the coal mine, specifically Hazen. The Hazen City Commission feels the BLM should include an evaluation of the impacts that would occur if the Federal coal were not leased.

If this coal were not leased Hazen would lose its severance tax share of 90 million tons. This is significant to our town. Our 2003 general fund operating budget was \$1,151,000 of which \$520,000, or almost half, came from severance taxes paid on coal. Eliminating coal mining would result in a fiscal disaster to Hazen, cutting services and reducing or eliminating infrastructure maintenance and improvements.

Hazen has a 2000 census population of 2,457, of which more than a hundred are employed at The Coteau Properties Company, representing a 2003 payroll of more than \$7 million. Eliminating 90 million tons from Coteau's reserves would shut down the mine sooner than planned, eliminating these jobs and removing this money from the community. We understand that this coal represents six years of coal mining, or a total payroll influx of more than \$40 million to the Hazen area alone.

The positive impact from leasing Federal coal is offset by the negative impact of not leasing Federal coal. Not only would we lose millions of dollars in payroll invested in the community, as well as tax money, but lost jobs means depressed home prices. Businesses would leave and the schools would suffer as well.

In your final environmental impact statement, please address the tremendous negative socioeconomic impacts from not leasing the Federal coal, and consider what that would do to the town of Hazen, as well as surrounding towns. This should be included in your tables on impacts and in Section 4.10, as well as other appropriate sections.

Sincerely,


Lorey Adler, President
Hazen City Commission

CC: Governor John Hoven
600 E Boulevard
Dept. 101
Bismarck ND 58505-0001

Hazen Public School District #3

P.O. Box 487
520 1st Ave. NE

National School of Excellence
Hazen, North Dakota 58545
www.hazen.k12.nd.us

Phone: 701-748-2345
Fax: 701-748-2342

School Board Members
Kurt Johnson, President
Mike Kruse, Vice President
Dennis Lott
Cris Miller
Terry Kruse



Administration

Michael J. Ness, Superintendent 701-2345
Ed Berger, High School Principal 701-2345
Beverly Langewiesche, Elementary School Principal 701-2345
Jerry O'Hanlon, Middle School Principal 701-2345
Tina Williams, Business Manager 701-2345
Jerry O'Hanlon, Athletic Director 701-2345

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Dear Sirs:

This letter is in response to your request for comments concerning a draft environmental impact statement to lease Federal coal in the West Mine Area, Freedom Mine, Mercer County, North Dakota. The Hazen School District requests that your final environmental impact statement more adequately address the socioeconomic impacts to local schools. Currently Table 2.3 lists socioeconomic impacts to employment, housing markets, economic development and revenue and royalties as "minor" under the No-Action Alternative (no leasing). This is incorrect. We expect these impacts would be major, especially as they affect the Hazen school district.

Of Hazen's 735 students, 88 have a parent that works at the Freedom Mine. This is 12% of our entire school enrollment. Anything that could reduce the amount of coal being mined, such as lost reserves through failure to lease coal, could reduce local jobs and significantly impact our student population. Reduced state foundation aid payments would make it more difficult to cover our fixed costs. These are costs that do not fluctuate significantly with changes in student populations. In addition, we understand that the proposed coal lease for 90 million tons represents some six years of production from the Freedom Mine. For the 2002-03 school year we received \$574,249 in coal severance taxes, about 12% of our overall budget of \$4,714,146. Six years of this would be \$3.5 million - the loss of this revenue must be considered a significant negative impact.

Thank you for the opportunity to provide input into the environmental impact statement. I trust the final report will consider all impacts appropriately.

Sincerely,

Mike Ness
Hazen School Superintendent



8

Beulah Public Schools

District #27

BOARD OF EDUCATION

Philip Engen, Chairman
Lynn Smith, Vice Chairman
Dore Knoff, Director
Ed Knoff, Director
Myron Bryant, Director
Robbie Neuman, Director
Ken Zeman, Director

Wilfred Volinsky, Superintendent
204 5th Street N.W.
Beulah, ND 58523-6543
Phone: (701) 873-2261
Fax: (701) 873-5273
Wilfred.Volinsky@beulah.k12.nd.us
www.beulah.k12.nd.us

June 17, 2004

ADMINISTRATIVE STAFF

Donald G. Bradley, Business Manager
Kelly L. Ruck, High School Principal
Mark H. Wagner, Technology Coordinator
Michael D. Lewis, Elementary Principal
Gail M. Reid, Middle School Principal
Kathleen A. Wagner, Office Coordinator

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

RE: Draft Environmental Impact Statement

Thank you for allowing us to provide comments on the Draft Environmental Impact Statement addressing the leasing of Federal coal at the Freedom Mine. We believe that failure to lease this Federal coal could have a significant negative impact on Beulah's schools. For the 2003-04 school year the Beulah school district had an enrollment of 860 students; 131 of these students had at least one parent that works at the Freedom Mine. Obviously with more than 15% of our enrollment directly related to a Coleson employee, actions that would impact the future of the mine would directly impact our schools.

If Federal coal is not leased, we understand this would reduce the longevity of the mine, placing a considerable downward pressure on our student population, and thereby significantly reducing state foundation aid payments, a per-pupil payment to fund school operations. With so many fixed costs to cover, regardless of the number of students, the loss of these payments would put a tremendous strain on our system.

In addition, 90 million tons represents a significant amount of severance tax revenue returned to the Beulah school district. For example, for the 2002-03 school year we received \$689,168 in severance tax monies from coal mining; this represented almost 12% of our overall \$5,818,245 budget.

With so many indirect businesses dependent on the local energy industry, such as vendors and suppliers, any reduction in business volume would also result in potential job losses, general population declines, and student losses in our schools. This again would directly negatively impact state foundation aid payments.

In your tables and narratives discussing impacts, please address the significant negative impacts of not leasing this Federal coal on local school districts.



Nationally Recognized Blue Ribbon School

Excellence
in
Education

Yours truly,

Wilfred Volinsky

North Central Association
Accredited Unit School



Department of Education
North Dakota
Bismarck, ND 58005
Phone: (701) 328-2222
Fax: (701) 328-2223
www.nd.gov/education

9

8

Beulah Chamber of Commerce

128 Central Avenue North
Post Office Box 718
Beulah, ND 58523-0718
Phone: (701) 873-4383 Fax: (701) 873-5381
e-mail: chamber@beulahnd.com

June 18, 2004

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, North Dakota 58601

Dear Sirs:

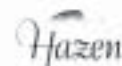
On behalf of the Beulah Chamber of Commerce, representing 120 businesses operating in and around the Beulah area, this letter is to provide comments concerning your Draft Environmental Impact Statement for leasing Federal coal in Coteau's West Mine Area. Your final EIS should address the positive economic impacts from mining locally and the major negative impacts that would occur if coal mining were to be discontinued prematurely because Federal coal was not leased.

The Coteau Properties Company has a large number of employees that live in and near the Beulah area. They shop here and support our local businesses. In addition, Coteau spends between two and three million dollars annually on supplies and services in Beulah. Elimination of this business activity would have a major impact on us. Finally, the Great Plains Synfuels Plant, the area's largest employer, depends upon lignite as a fuel stock; anything that would threaten their continued use of lignite would threaten jobs and create major negative local impacts.

The Beulah Chamber of Commerce recommends that the Bureau of Land Management evaluate all impacts appropriately, including the severe negative impacts of not leasing Federal coal. We believe you will find that leasing this coal is in the best interests of the widest number of people.

Sincerely,


Sandra Kestgate
President
Beulah Chamber of Commerce



Chamber of Commerce
2933 3rd Ave
Hazen, ND 58545

Phone 701-748-6848
hazen.chamber@ndstate.gov
www.hazennd.org

June 18, 2004

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, North Dakota 58601

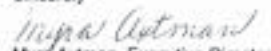
Dear Sirs:

On behalf of the Hazen Chamber of Commerce, representing over one hundred businesses in the Hazen area, comments are being provided regarding the BLM's draft environmental impact statement for leasing federal coal in the West Mine Area at The Coteau Properties Company. We are very concerned that your draft EIS pays scant attention to major negative socioeconomic impacts that would occur to our communities if this coal was not leased and mined. Your report describes impacts as "minor, beneficial" under the No-Action (no leasing) alternative. We frankly do not understand how you determined that not leasing 90 million tons of coal would create a "beneficial" impact on employment, housing and economic development. The actual impact is quite to the contrary, and would be major.

More than one hundred Coteau employees make their homes in the Hazen area. They shop here. They eat at our restaurants and use local businesses for their services. They make investments in their homes. Removing 90 million tons of coal from Coteau's reserves would result in job losses, creating lost businesses, depressed housing values and an overall community decline. In addition to indirect effects, Coteau annually spends \$5-6 million in Hazen on goods and services. Eliminating six years of mining (the equivalent of 90 million tons) means a direct loss to Hazen's businesses of \$30-36 million. This is not a "beneficial" impact!

We note the detailed evaluation you conducted for impacts to cultural resources, American Indian culture and heritage, and environmental justice. However, your draft EIS lacks any evaluation whatsoever of impacts to people living here today - people whose lives and livelihood depends on stable and secure jobs from an ongoing energy production facility. The final EIS must give at least equal weight to the tremendous socioeconomic impacts of your decision as it does to archaeological sites.

Sincerely,


Myra Aztman, Executive Director
Hazen Chamber of Commerce





Senator Randel Christmann
District 33
401 West Avenue NE
Hazen, ND 58545-4428
rchristm@state.nd.us

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0260



Assistant Majority Leader
COMMITTEES
Appropriations

June 18, 2004



Coal Team
Bureau of Land Management
North Dakota Field Office
2933 3rd Ave. West
Dickinson, ND 58601

Dear Sirs:

This letter is to provide comments on a Draft Environmental Impact Statement prepared for federal coal leasing of some 90 million tons at The Coteau Properties Company Freedom Mine. The Impact Statement assesses the environmental and socioeconomic impact of leasing this coal. It emphasizes impacts to cultural resources. I have attended meetings where these issues have been discussed, and understand the concern for preservation of important archaeological sites. They are important to our heritage, and protection of many of these sites is being provided in Coteau's mining plans.

As North Dakota District 33 State Senator, and Assistant Majority Leader, I have a responsibility to both my district constituents and the entire state of North Dakota. Although your Draft Environmental Impact Statement fully considers impacts to those concerned with site preservation, it falls far short in evaluating the impacts of not leasing federal coal on local residents, or on local or state governments. This should be corrected in the final EIS.

Most employees of The Coteau Properties Company live within District 33. Any reduction in coal reserves could reduce the longevity and economic viability of the mine, putting their jobs at risk. In addition, I understand the coal gasification process at the Great Plains Synfuels Plant requires lignite, and cannot use out-of-state sub-bituminous coal for their feedstock. Eliminating 90 million tons of reserves from their supply would impact the coal gasification plant as

well, and the hundreds of jobs that it provides. Contractors and suppliers that depend on these industries to provide business would suffer as well.

90 million tons represents \$33,750,000 in state coal severance tax at today's current rates. 70% of this would return to Mercer County to fund the county government, as well as local cities and schools. The remaining 30%, or \$10,125,000 goes to the State of North Dakota, and is needed for continuing operation of our state government. In addition, 90 million tons generates \$1.8 million in taxes allocated to the state's lignite research fund, vital for important research into the use and development of this important fuel resource. All of these revenues would be gone if this coal is not leased, and once the surrounding privately owned coal is mined, any future mining of this valuable resource will be economically unviable.

In addition to threatened job losses and reduced business activity, the direct loss of tax revenues from not leasing federal coal is a significant and substantial socioeconomic impact that must be addressed in your final Environmental Impact Study. On behalf of the citizens of District 33, as well as the other citizens of North Dakota who benefit directly and indirectly from the mining and use of our state's most abundant energy resource, lignite, I urge you to fully address the socioeconomic impacts of your federal coal leasing actions in a more complete and thorough manner.

Sincerely,

Randel Christmann
Senator, District 33

June 23, 2004

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Dear Sirs:

On behalf of the Bismarck/Mandan Chamber of Commerce, this letter is to provide comments regarding the Draft Environmental Impact Statement associated with a Federal Coal Lease Application in Mercer County, North Dakota. According to the Draft EIS, The Coteau Properties Company has applied for a Federal coal lease for some 90 million tons of coal in its West Mine Area.

Although we did not receive a copy of the Draft EIS, one has been made available to us from another source and we've reviewed it. In general, you thoroughly describe cultural resource impacts associated with mining, and how Coteau's mine plan will mitigate these impacts. However, the report lacks any analysis of socioeconomic impacts associated with coal mining.

The impact of coal mining in Mercer County is direct and positive in the Bismarck/Mandan area, and should be addressed as a positive regional impact. Many of Coteau's employees live in Bismarck or Mandan and commute to the mine. The average payroll for these commuting employees over the 2001-2003 period was slightly over \$4 million/year.

A substantial and significant amount of business volume is generated by the mine. Over the same three-year period, The Coteau Properties Company has spent on average more than \$20 million/year on goods and services from the Bismarck/Mandan area. These numbers do not include the large amount of goods and services bought by Coteau employees and their families that travel to our area.

The importance of a stable and economically viable coal producer so close to Bismarck and Mandan should be stated fully in the final environmental impact statement. The loss of 90 million tons of coal reserves could have a significant negative impact on our community.



We recommend the following specific changes:

1. On page 13 you describe the socioeconomic effects during mining under the No-Action Alternative (no leasing) as "Moderate, beneficial, short term on existing mine area". We would disagree with the conclusion that not leasing coal can have a "moderate, beneficial, short-term" economic impact.

We understand that this coal represents at least six years of production, the loss of which represents a direct loss of more than \$144 million in payroll and business volume in the Bismarck/Mandan area. Therefore the No-Action Alternative would actually create a major and negative long-term impact.

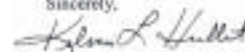
2. Similarly, on page 15, for the No-Action Alternative (no leasing) you describe the impacts on socio-economics as minor, beneficial and short-term for all categories. Again, this is incorrect. For the reasons stated above, the No-Action Alternative will create major negative long-term socio-economic impacts.

3. The discussion of socio-economic impacts on pages 43 and 44 needs to be expanded significantly. As described above, negative local and regional impacts from not leasing Federal coal must be quantified and discussed.

This must include the actual losses of payrolls, business volumes, and taxes, and how this loss would negatively impact local and regional government budgets, infrastructure, services and residential and business real estate values. The current discussion does not reflect the true extent of regional impacts.

We ask you to carefully consider the application for the expansion of the Coteau Properties mine. We believe the positive impact of a long-term stable coal supply will provide continued benefits to the Bismarck/Mandan community. Thank you for the opportunity to provide comments on the draft environmental impact statement. Please add our name to your mailing list for this project. If you have any questions please contact me.

Sincerely,



Kelvin L. Hullett, President
Bismarck-Mandan Chamber



"Lona Knight"
 <lpiqueen@hotmail.co
 m>

06/25/2004 11:56 AM

To: <lee_jeffrie@blm.gov>
 cc:
 Subject: Stop the Strip Mining

Dear Sir,
 Please stop the strip mining that will destroy sacred burial grounds. I am a
 concerned citizen and wish to protect the environment and also protect ancestral
 burial grounds. Thank you.
 Lona M. Knight

3

IncrediMail - Email has finally evolved - [Click Here](#)

Nancy Kile
 2614 Moose Dr.
 Sturgis, SD 57785
 605-720-0282



5-24-2004

ATTN: Coal Management Team
 Bureau of Land Management
 North Dakota Field Office
 2933 3rd Ave. W
 Dickinson, ND 58601

Gentle persons;

Please do not allow the Freedom Mine to proceed with purposed surface coal mining and reclamation activities that will devastate the environment of 17,051 acres of Indian Country. This project displays blatant disregard for existing natural environments, and will further degrade the future historical significance of this site for Indigenous heritage. Indigenous Peoples populations are growing, our youth are returning to sacred landscapes.

3, 6

Under the United States Constitution, Fort Laramie Treaties, existing federal and state laws, agencies, companies and individual Americans are charged with the responsibility to protect and maintain the integrity of our ancient Indigenous identity. What the Freedom Mine purposes to do is a violation of basic human rights, I ask again, please stop this pathway to ethnic cleansing.

7

Sincerely yours;

Nancy Kile

06/27/04

Lee Jefferis
Coal Team
Bureau of Land Management
ND Field Office
2933 Thira Avenue West
Dickinson ND 58601



Mr. Jefferis:

QUARTERED MAIL: 2004 #220 0007 0057 4504

Re: Draft EIS, #23-04, West Mine Area, Mercer ND

As an enrolled tribal member of the Three Affiliated Tribes and a resident of the Fort Berthold Indian reservation, I oppose all EIS Mining alternatives for the federal coal reserves in the West Mine Area in Mercer ND. The WMA plan, if approved by the BLM, will have a significant, detrimental, and cumulative impact on the historical, cultural, and social bonds of current and future Three Affiliated Tribe members, with our own historic (documented) homelands. There are 1,732 known culturally significant stone rings, stone cairns, stone alignments, effigy, burial mound, and other known cultural sites. Additionally, future advances in technology will likely identify other cultural sites not yet identified.

13

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Section 4.8, Alternative C, the 'preferred' alternative, (Residual Effects), acknowledges, "The societal bonds with past ancestors and past lifeways would be severed by the destruction of visible cultural features and the natural landscape by mining the coal." Further, "Cultural representatives and tribal elders have repeatedly expressed concerns about the effects on their communities in losing these cultural resources. Mitigation is not a reality given this belief system".

A recent MnISose Intertribal Water Rights Coalition publication documents that the northern plains are in a five year drought cycle. Further, the Department of Interior projects a 2025 severe water crisis which will have substantial impact on major cities in the Western United States. Coal-based energy depends on the increasingly scarce water resources and continues to contribute significant CO2 emissions into our air. I support sustainable energy development in North Dakota which does not expend our increasingly limited water supply and does not contribute to environmental pollution, as lignite coal does.

The WMA proposal is an environmental justice concern. It will have a disproportionate impact on tribal, low-income residents and similarly affected populations around Fort Berthold. The WMA and surrounding area are also identified as the territory of the Three Affiliated Tribes in the 1851 Fort Laramie Treaty, and, as a result, are still to be protected under our treaty with the United States.

Madeline Bate
Theodore Bate Head
P.O. Box 616
NEW TOWN ND 58763



"Scott Kile"
scottk@rushmore.com

To: <lee_jefferis@blm.gov>
CC:
Subject: Ethnic cleansing by Coteau

06/28/2004 07:57 PM

I am writing to let my opinion be known on the subject of the Coteau mine project. Since when was the N.D. Public Service Commission given the authority to commit sacrilege? Is this the Public Service Commission or the Big Business Commission? Sacred sites cannot be moved, only destroyed, and this would not be a service to any of the public. Native American's and their Spiritual beliefs have been stepped on for long enough. We have to leave all their sacred sites alone if we ever have a chance at undoing the wrongs our Nation has imposed upon them. Sacred is sacred, and Coteau's idea of sacred is the almighty dollar.
Stop Coteau now!
Scott Kile
scottk@rushmore.com
2614 Mose Dr.
Sturgis, S.D. 57785
605-720-0282

3, 6



A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

FREEDOM MINE

254 County Road 15
Beulah, ND 58523-9475

(701) 873-2281 • Fax (701) 873-7228

June 29, 2004

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Dear Sirs:

This letter is to provide comments regarding Draft Environmental Impact Statement (DEIS) #23-04, for federal action associated with Federal Coal Lease Application NDM 91535, submitted by The Coteau Properties Company (Coteau). We request that these items be addressed as you prepare the Final Environmental Impact Statement (FEIS).

General:

Please review your numbers concerning sites impacted under different alternatives. We are updating our analysis of sites likely to be disturbed or possibly disturbed based on proposed operations, and will forward this information to you in the next two weeks.

Your FEIS should clearly state that the surface coal mining permit has been approved by the state of North Dakota, operations are ongoing in the permit area at this time, and that Coteau currently has approval for operations on private lands over unleased federal coal. Also, the FEIS should note that the Cultural Resources Management Plan (CRMP) has been approved by the North Dakota State Historic Preservation Officer and Director of the State Historical Society of North Dakota, and is currently being implemented. Finally, please state that the Programmatic Agreement, describing the manner in which the CRMP is implemented and outlining agency responsibilities, has been signed by Coteau, the Office of Surface Mining (OSM), the North Dakota State Historic Preservation Officer, the North Dakota Public Service Commission (NDPSC), the Bureau of Land Management (BLM), and the Advisory Council on Historic Preservation, and that execution and implementation of the agreement is evidence that OSM and BLM have satisfied their Section 106 responsibilities for all individual undertakings covered by the agreement.



Coal Team
Bureau of Land Management
June 29, 2004
Page 2

Specific Items:

1. The picture of the front cover is of a mining operation, but is not Coteau's Freedom Mine. It doesn't even appear to be a mine in North Dakota. Please remove this picture from the front cover, as it is misleading to many people.
2. Page 1, column 1, paragraph 1, line 3: The first sentence states that the Environmental Impact Statement (EIS) analyzes effects from leasing tracts of federal coal adjacent to the Freedom Mine. This is incorrect. Because the West Mine Area permit was approved by the NDPSC on April 14, 2004, the federal coal tracts are located within the Freedom Mine. Please revise this and any other references to a proposed permit area, to describe it as either an existing permit area or approved permit area.
3. Page 1, column 1, paragraph 1, line 5: Please correct the name of the company. The correct name is "The Coteau Properties Company", not "Coteau Properties Company."
4. Page 1, column 1, paragraph 3, line 3: Please change the reference to the "proposed permit area" to the "approved permit area."
5. Page 1, column 1, paragraph 5, bullet 2: Please change the reference to the "proposed permit area" to the "approved permit area."
6. Page 1, column 1, paragraph 5, bullet 3 and/or Page 2, column 1, paragraph 4: You state that over 190 letters were mailed to interested parties on March 11, 2003. Please state who received these letters, and their affiliation. We understand that governments, school districts, and chambers of commerce of the closest cities of Beulah and Hazen, which certainly have an interest in the leasing of this federal coal, did not receive a copy of the DEIS. Were they included in the original scoping notice? How many responses were received? Who were they received from? This information was presented during the June 2004 public meetings, and should be included here to demonstrate the type and extent of concern by interested parties.
7. Page 1, column 2, paragraph 5, line 7: Please correct the statement that \$200,000 would be set aside in an American Indian Education Trust. The approved CRMP states that approximately \$200,000 will be donated to the trust. The proper name of this trust is the Indian Cultural Education Trust.
8. Page 1, column 2, paragraph 6, line 4: Please correct the statement that leasing would maintain economic stability in the area without placing major additional demands on the existing infrastructure or services, to eliminate the word "major". Leasing and mining of this federal coal could be accomplished without placing any additional demands on existing infrastructure or services.
9. Page 1, column 1, paragraph 1, line 2: Please correct the reference to federal coal adjacent to the Freedom Mine, to within the Freedom Mine.
10. Page 2, column 1, paragraph 1, line 2: The approved permit area is 17,051 acres. Please correct this sentence.

11. Page 2, column 1, paragraph 8, bullet 3: Please revise this sentence to state "What environmental ~~and socioeconomic~~ effects would likely occur..." Socioeconomic effects have been voiced as a concern by many people not directly associated with the lease applicant, but who may be impacted nonetheless.
12. Page 3 (map): Please correct the map to show ND Highway 1806, and the continuation of paved County Road 15 up to Highway 1806. As currently drawn, it appears to dead-end at Coteau's mine office.
13. Page 4, column 1, paragraph 2: Please correct this paragraph. Coteau submitted the mining permit application to the NDPSC on May 31, 2002, not concurrently with the federal coal lease application, which was submitted in January 2002. Please state that the mining permit was approved on April 14, 2004, and that Coteau currently has approval for surface mining operations on private lands over unleased federal coal.
14. Page 4, column 2, paragraph 3, line 7: Please correct the date of the 2000 meeting organized by the Standing Rock Tribal Historic Preservation Office. It should be May 11, not April 11.
15. Page 4, column 2, paragraph 5, line 10: Please add a statement clarifying that Coteau has also hosted site visits by Native Americans, and has contacted permit area landowners at the request of tribal spiritual leaders for unaccompanied visits on their own. The current language is misleading because it appears that only two field tours have been available.
16. Page 5, column 1, paragraph 4, line 9: Please correct this sentence to read "...West Mine Area..."
17. Page 5, column 2, paragraph 6, bullet 2: Please correct the dates for Mercer County's conditional use approval. The application went before the County Planning and Zoning Board on January 23, 2003, and was approved by the Mercer County Commission on February 4, 2003.
18. Page 7, column 1, paragraph 3, line 5: Please revise the statement that "Mining of non-federal coal could have substantial impacts..." to "Mining of non-federal coal would have substantial impacts..." Revising this language makes clearer that disturbance over unleased federal coal will happen without federal coal leasing, rather than just the possibility of its occurrence. This change would also make the language consistent with captions of Figures 2.1 and 2.2.
19. Page 7, column 1, paragraph 6, line 2: Please capitalize both words in the name "Freedom Mine".
20. Page 7, column 1, paragraph 7, all bullets: Please correct the word "yearend" to "year-end."
21. Page 10, Figure 2.3: Please correct the red cross-hatched area in the legend to read "Proposed Indian Cultural Education Trust Area." These lands will be placed into the trust only if Coteau is successful in their acquisition.

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22. Page 13, Table 2.2, Description of Impacts: Please note under the section AFTER RECLAMATION that changes in post-mining topography, livestock grazing distribution, and field and pasture access will be improved under all scenarios. This is based on the history of reclaimed lands at the Freedom Mine.
23. Page 13, Table 2.2, Description of Impacts: Please revise the discussion under Wildlife - DURING MINING to reflect a projected actual increase in habitat for migratory birds, and increases in waterfowl resting and feeding habitat, contrary to negative impacts stated in the DEIS. These increases are from construction of sedimentation ponds and seeding of erosion controlling grass cover on disturbed areas. There will be more open water and adjacent dense nesting cover available than currently exists in the West Mine Area. This is substantiated by wildlife monitoring conducted on the mine site, and documented in wildlife monitoring reports submitted to the NDPSC.
Please remove the impact statement that there will be an increased mortality rate of small mammals, amphibians, and reptiles, or provide substantiation for this statement. Again, sedimentation ponds and dense grass cover in associated disturbance areas will provide enhanced habitats that do not currently exist in abundance in the West Mine Area. The statement "Temporary displacement of mammals, amphibians, reptiles and birds" should be modified to state "in active areas." In inactive, associated disturbance areas, wildlife habitat is actually enhanced.
Table 2.3 should be modified in the same manner under wildlife impacts. Although changes in wildlife habitat exist as a result of mining, these changes are often positive and result in increased wildlife usage.
24. Page 13, Table 2.2, and Page 15, Table 2.3, Description of Impacts: Please revise the statements on magnitude and duration of impacts under socioeconomics. Several local residents and government officials have expressed concern that not leasing federal coal would result in major long-term negative impacts on governments, schools, and businesses, contrary to the stated moderate beneficial impacts.
25. Page 15, Table 2.3, Description of Impacts: Please revise the statement associated with cultural resources concerning acres affected, or provide documentation for the assessment that 68,683 acres of "cultural landscape" would be lost. The current permitted area of the Freedom Mine is 43,126 acres, with the expected future overall permitted size to be less than 50,000 acres. The entire permitted area will not be disturbed, so the expected affected area is well under 50,000 acres. In addition, are croplands, which comprise possibly half or more of all permitted lands, considered "cultural landscapes?" If only disturbed native prairies are considered cultural landscapes, then the actual acreage impacted would be closer to a third of the 68,683 acres described in the DEIS.
26. Page 17, column 2, paragraph 3, lines 10-12: Please correct the reference to United Power Association's Stanton Station. They changed their name to Great River Energy. Power from their Stanton Station is provided to Great River Energy's member cooperatives, not to Basin Electric's.

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27. Page 19, column 1, paragraph 1, line 2: Theodore Roosevelt National Park is described as having three units. However, we understand there are only a North Unit and South Unit. Where is the third unit? Please explain or describe.
28. Page 20, column 1, paragraph 1, line 5: Please place a period at the end of the sentence.
29. Page 20, column 2, paragraph 1, line 3: Please note that ammonium sulfate is NH_4SO_4 , not just SO_4 .
30. Page 20, column 2, paragraph 2, line 3: Please revise the text statement that "...concentrations are about two to five percent..." to be consistent with Table 3.3 on the same page. The table shows monitored SO_2 concentrations at 2-4% of the NAAQS.
31. Page 21, Table 3.4: Comments are provided on trends in temperature and precipitation. Please provide the time span or dates over which these trends were evaluated to provide a point of reference for the reader.
32. Page 21, Table 3.4: Where is the "Badlands Wilderness?" Is this the same as Theodore Roosevelt National Park? We've never heard of this site. Please clarify.
33. Page 27, column 2, paragraph 3, line 8: Please revise this text, as the Mandan, Arikara, and Hidatsa are the constituent tribes of the Three Affiliated Tribes; they are not a separate entity as the current text implies.
34. Page 28, column 1, paragraph 3: You state that "these cultural places become the focus of pilgrimages." This was also stated in the Traditional Cultural Properties report by Sherri Deaver. Please describe the known extent of pilgrimages to specific sites in the West Mine Area prior to Coteau's involvement, and invitations to visit sites. We currently know of no specific visits to specific sites in the past 50-75 years, except for the turtle effigy, mentioned by the late Ron Little Owl. The importance of these sites should be reflected in the history of visitations.
35. Page 31, column 1, paragraph 3, line 1: Please correct the statement regarding shifts at the mine. Some operations run 8 hour shifts, some 10 hour shifts, and some 12 hour shifts. It would be correct to say that "...working 8 hour, 10 hour, or 12 hour shifts from 5-7 days per week, depending on the type of work being conducted and season of year."
36. Page 31, column 1, paragraph 4, line 6: Please delete or modify the reference to blasting creating gaseous pollutant emissions. Although NO_x emissions from incomplete explosive detonation have been recognized as a problem at mines in the Powder River Basin, this has not been recognized as a problem in blasting operations in North Dakota.
37. Page 31, column 2, paragraph 2, line 6, and paragraph 3, line 4: Please correct the statements regarding annual coal production. Coteau's approved air permit to operate describes the mining operation with a maximum production rate of 16.5 million tons/year.
38. Page 31, column 2, paragraph 3, line 1: Please add a "d" to the word "describe" for proper grammar.

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39. Page 32, column 1, paragraph 2, line 4: The DEIS states that the North Dakota Department of Health (NDDOH) is negotiating with the EPA "concerning sulfur dioxide exceedances in areas of unspoiled air quality." These areas should more appropriately be referred to as "Class I Areas."
40. Page 32, column 1, paragraph 4, lines 10-12: The information used to describe potential radius of effect on groundwater supplies from mining is out of date. Please reference Coteau's groundwater probable hydrologic consequences analysis in approved mining permit NACT-0201 (West Mine Area). Based on analyses of monitoring wells placed near active operations, measurable declines in groundwater levels are not expected more than one-half mile to one mile from coal removal operations.
41. Page 32, column 2, paragraph 2: Please note that discharges from sedimentation ponds on the mine site have average lower sediment concentrations than monitored surface water runoff from surrounding undisturbed lands. This information is included in Coteau's application to the NDDOH to amend its North Dakota Pollutant Discharge Elimination System Permit on March 19, 2001. Please revise the statement that increases in sediment load are expected to be minimal to state that based on the history of water discharges at the Freedom Mine, the use of sedimentation ponds is likely to result in water discharges having decreased sediment loads than before mining.
42. Page 33, column 1, paragraph 1: Please note that reclaimed drainage wetlands are likely to have more open water than premining drainage wetlands, and more opportunities for vegetation zonation development, as described in the approved mining permit, and thus are expected to provide more habitat for waterfowl.
43. Page 33, column 2, paragraph 3: The discussion of land use should include a statement that field sizes and shapes will be designed to more efficiently conduct cropping, and that designed pastures and stockpond locations will be more conducive to proper rangeland management than before mining.
44. Page 34, column 1, paragraph 1: Your statement that lands have been modified from native prairie to agricultural uses is misleading - we believe you mean they have been converted from native prairie to cropland. In addition, you state that remaining areas of native prairie have been "converted" to grazing lands. Please restate this to clarify that these lands are used for grazing or hay production. They are not "converted" to grazing, as they have historically and prehistorically been grazed by livestock or buffalo. Also, please note as described earlier, that additional habitat will be created through sedimentation ponds and dense grass cover during mining. This is in contrast to statements that rodents, skunks, snakes, and frogs would be most vulnerable to injury or death by surface mining operations.
45. Page 34, column 1, paragraph 4, line 1: Please insert the word "be" in the first sentence "...this alternative would be as described..."

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Coal Team
Bureau of Land Management
June 29, 2004
Page 7

46. Page 34, column 2, paragraph 1: Please include a statement that part of the reason for the difficulty that Native Americans have in accessing sites is because the sites are on private land, and require landowner permission to visit them.
47. Page 34, column 2, paragraph 4, line 9: Please place a period at the end of this sentence.
48. Page 37, Alternative C (Preferred): You describe certain lands that would be avoided, lands that would be preserved, and lands that would be placed into the Indian Cultural Education Trust. Please note that lands will be placed into this trust only if Coteau is successful in acquiring them. As described in the approved CRMP, if Coteau is unsuccessful in acquiring designated properties for donation to this trust, provisions exist to negotiate alternative mitigation measures.
49. Page 43, Section 4.9, Environmental Justice: Please include a discussion about input from local communities and environmental justice impacts on local residents as a result of proposed alternatives.
50. Page 43, Section 4.10, Socioeconomics: Please include a more detailed discussion of the socioeconomic impact of proposed alternatives on local residents, local and state governments, schools, etc., based on input received as well as your own analysis.
51. Page 44, Section 4.12, Irreversible and Irretrievable Commitments of Resources: If the federal coal is not leased, it will be mined around, and likely never be mined in the future. This would represent a significant and substantial loss of an important resource. Please address the value of this coal that would be lost and the amount of energy that would never be retrieved under the no leasing alternative.
52. Page 47, Table 5-1: The proper name is The Coteau Properties Company.
53. Page 47, Lists of contributors, consultants and preparers: Please include the list of local organizations and governments consulted in preparation of the DEIS.
54. Page 71, Figure C.1 and Page 72, Figure C.2: Please switch the labels for the Heart River and Knife River on the map.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY


Joseph D. Friedlander
Environmental Manager

JDF:lr

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June 30, 2004

Coal Team, Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Below please find comments from the Standing Rock Tribal Historic Preservation Office regarding Coteau Properties Company Federal Coal Lease Application for West Mine Area Draft Environmental Impact Statement.

The Area of Potential Effect is not clearly defined for this undertaking.

1.2.2 One of the issues selected for detailed study in the DEIS was how unacceptable adverse impacts may be minimized, mitigated or avoided. Whether stone circles and rock cairns are considered as cultural resources or possible grave sites, Standing Rock considers the disturbance and destruction of these sites to be an unacceptable adverse impact and urges BLM to develop an additional alternative that goes further in protecting sites from disturbance. For example, BLM could develop an alternative in which coal is leased with additional "No Surface Disturbance" stipulations placed around rock cairns and ring sites above federal coal.

1.3 OSM must make a decision regarding approval or disapproval of a successful bidder's mining plan. Standing Rock finds it reprehensible that the agency would approve of, or recommend for approval, a mining plan that allows for the disturbance and destruction of burial grounds. While the CRMP and DEIS recognize that state burial law applies to these lands, this provides us very little comfort because although this office has repeatedly raised concerns about the potential burials in this area, authors of the CRMP refuse to recognize the possibility that these stone features are burial markers and OSM, BLM, and PSC agents have instead all approved of the current mitigation plan (CRMP) that proposes to simply bulldoze through the majority of these features. Once features are bulldozed over, it is unlikely there will be anything left to identify even as an "inadvertent discovery".

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2.1 Alternative C, according to the DEIS was designed to consider "ways of preserving, mitigating, and minimizing impacts to cultural resources which are meaningful to American Indian Tribes of the Great Plains and the historic-preservation community." (p.7)

2.3 Under Alternative A "13 Historic Properties avoided or mitigated for their potential to yield scientific contributions to prehistory." Since there is a substantial difference between the avoidance of and the mitigation of a site, it would clarify this section to enumerate here sites that will be avoided and those to be mitigated.

2.4 Are archeological investigations planned for 26 Historic Properties located over non-federal coal stipulated by the lease of Federal Coal?

2.5 Alternative C would be more accurately described if the first sentence of second paragraph were changed to read: "This alternative also includes a voluntary donation of lands and monies by the leasee to a recently established North Dakota State Indian Cultural Education Trust."

The terms in which the CRMP describes the transfer do not legally obligate Coteau to transfer specific lands or any lands at all into the trust. Some American Indian Tribes to whom the sites are meaningful (one of them being Standing Rock) have been excluded from the donor agreement.

Is the transfer of lands to the trust being considered as a mitigation measure for the purposes of Sec106?

Table 2.1

The box for Alternative C across from Historical properties over federal coal states: 6 properties donated to the ND trust. On page 8 DEIS states that 4 of the properties above federal coal will transfer. This is a bit unclear. To be more clear count properties outside of the WMA separately from those within the WMA. Does the Bee's Nest site contain 2 properties?

The count of properties donated to the trust in the box for Alternative C across from Historical Properties over non-federal coal is also misleading. Through informal discussions with property owners, it is Standing Rock's understanding that the landowners are at this time unwilling to sell lands containing the Boeckel-Remmer site to Coteau. Given that this one site contains 165 stone rings and 24 cairns as well as some other features that archeologists recognize as burials, the inability to include these lands in the trust would at least on a quantitative level significantly alter the amount of cultural resources preserved through the trust.

3.9 DEIS recognizes that "all of the tribal consultants have repeatedly stated that all [1,721] of the sites within the project area are culturally important, have traditional cultural associations, or are sacred" however only 1 site was considered eligible for the

national register as a TCP (p.28). The DEIS contains no discussion of the plan used to evaluate Traditional Cultural Properties as eligible to the national register. TCP determinations presented in the DEIS are based on an incomplete survey conducted with limited Tribal input. To date only Tribal representatives have visited a small percentage of the features.

4.8

The DEIS states that "a distinction between avoidance and preservation is critical to this analysis" (p.34) and that the Preferred Alternative has "substantially fewer residual impacts than Alternatives A or B because of mitigation measures" (p.40). However, the DEIS remains unclear as to who is accountable for the selection and transfer of properties that that would be preserved by donation. The terms of the donor agreement are also undefined.

What role does the Agency play in determining whether properties over federal coal are protected under the trust?

Decision makers must be provided with a clear understanding of whether properties and sites described in the CRMP and DEIS will in fact be transferred to the trust and also what authority and obligation the applicant and respective agencies have within that process.

In summation, given that the transfer of lands to the trust is the only essential difference between Alternatives A and C, the ambiguities associated with transfer of lands Alternative C should be clarified in order "to provide a clear basis for choice among options" as outlined 40 C.F.R. 1502.14. Standing Rock would also like to see another alternative developed that contains additional No Surface Disturbance stipulations to protect cultural resources on surface over federal coal based on upcoming site visits by Tribal elders. We hope that features that the elders identify as burials will be recorded as such and once recorded we expect these burials to be afforded protection under NDCC 23-06-27 as described at DEIS 2.4 (p.7-8).

I thank you for your time. Your consideration of the above comments is appreciated.


Mary Wilson
NEPA Coordinator

Defenders of the Black Hills
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June 30, 2004

Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Dear Sir:

The following are comments regarding the Draft Environmental Impact Statement #23-04, The Coteau Properties Company Federal Coal Lease Application NDM 91535 for West Mine Area, Freedom Mine, Mercer County, North Dakota.

3.0 AFFECTED ENVIRONMENT

3.1 Introduction

"The WMA has been privately owned by farmers/ranchers for over 100 years and used to raise crops and livestock."

4.0 ENVIRONMENTAL CONSEQUENCES

4.1 Introduction

"The surface estate of the WMA is almost entirely privately owned."

Prior to the consideration of any coal lease application, the Bureau of Land Management and any other federal agency must assure that the land ownership of the area in question is legal and what it is stated to be. The above statements: "The WMA has been privately owned by farmers/ranchers for over 100 years and used to raise crops and livestock," and "The surface estate of the WMA is almost entirely privately owned," are false. The legal land ownership resides with the Great Sioux Nation under the Fort Laramie Treaty of 1868 and in accordance with the Constitution of the United States and the March 3rd Act of 1871.

To refresh the reader's memory, the Constitution of the United States of America in Article VI (2) states:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Therefore, the violation of a Treaty is a violation of the Constitution of the United States.

Furthermore, according to the March 3rd Act of 1871 (16 Stat.544):



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"No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty; but no obligation of any treaty lawfully made and ratified with any such Indian Nation or tribe prior to March third, eighteen hundred and seventy one, shall be hereby invalidated or impaired."

The 1868 Fort Laramie Treaty was made prior to 1871 and by this Act of the United States Congress, the 1868 Fort Laramie Treaty made between the United States and the Great Sioux Nation could not be invalidated or impaired. The March 3rd Act of 1871 was never rescinded. Any succeeding Congressional Acts are then invalid.

Members of the Great Sioux Nation have consistently tried to inform the people being allowed to trespass on the territory of the Great Sioux Nation that a legal and lawful Treaty was in place. The obligation to inform American citizens that they are trespassing resides with the United States Federal government. However, it is also an individual responsibility of American citizens, and in particular, federal officials and public officials, to uphold the US Constitution.

It is not the responsibility of the BLM to decide this issue. However, it is the responsibility of the BLM and its individual employees to insure that the land they are trying to regulate is legally owned as stated by the property owner. In this specific case, the "private landowners, ranchers, and farmers" do not hold legal title to the surface land or the mineral rights beneath the surface. These are still vested with the Great Sioux Nation. Until the land title is settled, the BLM and its individual employees are working outside their legal boundaries and must cease and desist, or consider themselves as parties to an illegal activity.

(The following comments are not to be construed as giving recognition of the legality of the BLM or any of its employees to conduct this activity. Defenders of the Black Hills still holds and maintains that the BLM and its individual employees are acting outside of their legal authority as the land in question belongs to the Great Sioux Nation. The Office of Surface Mining and the NID Public Service Commission are also acting outside of their legal authority.)

1.4 REGULATORY AUTHORITY AND RESPONSIBILITY

"Pursuant to Section 503 of SMCRA, the North Dakota Public Service Commission (PSC) developed, and the Secretary of the Interior approved, North Dakota's permanent regulatory program. This authorized the PSC to regulate surface coal mining operations and the surface effects of underground coal mining on private and State lands within the State of North Dakota. In August 1983, pursuant to Section 523 (c) of SMCRA, PSC entered into a cooperative agreement with the Secretary of the Interior. The PSC now regulates surface coal mining operations and the surface effects of underground coal mining on Federal lands within the State."

"...OSM, BLM, and other Federal agencies review the PAP to ensure that it contains the necessary information for compliance with the coal lease; the Mineral Leasing Act of 1920, as amended (MLA); the National Environmental Policy Act of 1969, as amended (NEPA); National

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Historic Preservation Act of 1966, as amended (NHPA); and other applicable Federal laws and their attendant regulations."

This mixing of federal and state responsibilities under a state agency that is answerable only to state law has raised problems with this specific project. There are tribal members from other Sioux tribes who will be adversely affected by the destruction of the Traditional Cultural Properties in the WMA, but those tribes reside in Canada, South Dakota, Minnesota, and Nebraska.

This raises the question of who is responsible for the enforcement of NEPA, NHPA, and other applicable Federal laws as well as informing all interested parties outside of the state of North Dakota. The Department of the Interior (DOI), the BLM, and the OSM are in error by allowing a state agency to oversee the enforcement of federal laws. How are the DOI, the BLM, and the OSM going to rectify this situation?

1.4.1. Status of Coteau's WMA Application

"Because the surface estate of the WMA is entirely non-Federal, Federal approval is not required for PSC to approve Coteau's pending application."

This again raises the question of enforcement of federal laws. The Department of the Interior (DOI), the BLM, and the OSM are in error by allowing a state agency to oversee the enforcement of federal laws. How are the DOI, the BLM, and the OSM going to rectify this situation?

1.5 Relationship to BLM Policies, Plans, and Programs

"As the proposed lease is on privately owned lands many of the laws and Executive Orders pertaining to Federal lands, such as the Native American Graves Protection and Repatriation Act and Executive Order 13007 do not apply."

This is an extremely important situation where environmental justice for American Indians and religious freedom rights will be denied. This again raises the question of enforcement of federal laws. The DOI, the BLM, and the OSM are in error by allowing a state agency to oversee the enforcement of federal laws. How are the DOI, the BLM, and the OSM going to rectify this situation?

1.6 SCOPING AND AMERICAN INDIAN CONSULTATION

"The imprint of past peoples is found on the WMA landscape mainly in the form of stone features: rings, cairns, alignments, and a single effigy and petroglyph. These stone features, which dot the landscape, mark locations used by the ancestors of the Mandan, Arikara, Hidatsa, and later, the Yanktonai Sioux and other nomadic groups who moved into the area in the 1700s."

The reference for this statement needs to be cited as we find it to be biased and nonfactual.

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3.4 AIR QUALITY AND CLIMATE and 4.3 AIR QUALITY

Not answered in this DEIS is the amount of Carbon, Sulfur, and Nitrogen Oxides that will be emitted in the atmosphere from the burning of the coal. How do these amounts relate to the current amounts in the atmosphere? If Coteau annually mines 15-16 million tons per year, how much of an increase will there be released into the atmosphere of carbon, sulfur, and nitrogen oxides by the burning of 15-16 million tons of coal? What effects will be felt in the global climate from the burning of 15-16 million tons of coal per year? What are the comparable health related costs for respiratory and other illnesses due to the increase in carbon, sulfur, and nitrogen oxides in the atmosphere from the burning of 15-16 million tons of coal per year? What will be the effect to global agriculture by the burning of 15-16 million tons of coal per year?

3.5 WATER RESOURCES

Ground Water

"Precipitation is the sole source of groundwater for uplands in WMA."

4.4 WATER RESOURCES

Groundwater

"Disturbances from mining may result in altered chemical quality of shallow groundwater aquifers. Increases in sodium, sulfates, and total dissolved solid concentrations have been reported by Groenwald (1980) and Groenwald and Rehm (1979) at other mines in North Dakota with similar overburden. Degradation of water quality at the mine site is likely. Water quality in replaced overburden would be similarly degraded.

"Surface mining would not adversely impact water levels and water quality in deep aquifers." Please cite the source as water quality in deep aquifers will ultimately be impacted due to the removal of the layers directly above them, and the refilling with overburden that does not systematically filter the water as it was filtered prior to removal of the coal. The overburden cannot filter water the same way as coal. More studies need to be completed before the above statement can be taken as fact. Deep aquifers will be impacted.

"Subsidence is not removed or disturbed by coal mining and so are not impacted by surface mining activity." Again, please cite the source and consider that water quality in deep aquifers will ultimately be impacted due to the removal of the layers directly above them, and the refilling with overburden that does not systematically filter the water as it was filtered prior to removal of the coal. The overburden cannot filter water the same way as coal. More studies need to be completed before the above statement can be taken as fact. Deep aquifers will be impacted and must be given greater consideration as the future generations will not have accessibility to acceptable water from the same deep aquifers.

Surface Water

"The post mining backfill may take in excess of 100 years to reach equilibrium water levels and water quality."

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This should be totally unacceptable to anyone having any concern for the Missouri and the Mississippi Rivers as the runoff of unacceptable water will be polluting those two major rivers in excess of 100 years. What about the impacts on fish and other waterlife?
What kinds of studies have been done regarding the impacts on fish and other waterlife in the Missouri and Mississippi Rivers?

"Replaced wetlands may not duplicate the exact function and landscape features of all premining wetlands. However, all wetland replacement plans would require approval by the PSC."

Are the members of the PSC recognized authorities in wetlands ecology so that they may make acceptable decisions in wetlands ecology replacement plans?

4.7 WILDLIFE

"...that they are not aware of any T&E species listed for Mercer County frequenting the WMA."

The key words here are 'Mercer County.' However, what about species that migrate through the area and drink the surface water in the pits? What about species in the waterways, rivers, that will be impacted by the increased pollution from runoff and air borne pollutants that settle on the water? Long range and wide reaching impacts are an integral part of an Environmental Impact Study, not just the local area.

4.8 CULTURAL RESOURCES

"The Indian Cultural Education Trust was conceived by Coteau and enacted by the North Dakota Legislature in 2003. The purpose of the Trust, managed by the North Dakota State Land Department, would be to hold lands containing cultural resource sites for protection and preservation and to generate income through grazing leases for educational activities of American Indians. The lands would be conveyed into the Trust under the terms and conditions of donor agreements amongst Tribes..."

This idea by the mining company and adopted by the North Dakota Legislature is from the 1800s and should not be allowed the light of day in the year 2004. For too long, more than 100 years, corporations wishing to destroy that which is sacred to American Indians have been allowed to dictate their profit motive through contrived laws to destroy American Indian ways of life. This is a sham of the purpose of legislation and legitimizes 'payoffs.'

Furthermore, it is not up to a mining company to dictate to the Tribes, or rather Nations, anything about donor agreements. This is not only an insult to the Tribes so horribly affected by this very idea, but is an insult to the intelligence and integrity of every voter in the state of North Dakota. It is racist and violates the Constitutional First Amendment right of Freedom of Religion. If these were respected and revered Christian sites, such as the Native place in Bethlehem, or Mount Calvary in Jerusalem, they would not be destroyed. They happen to belong to Nations of people who have a different spiritual understanding. Therefore it is acceptable in this "Christian" state to destroy anything that is not "Christian."

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The individual employees of the BLM have a moral, ethical responsibility as federal employees, as Americans, as human beings, to insure that the First Amendment Rights of American Indian people, who are also considered to be American citizens, are not violated.

"Funds accumulated in the Indian Cultural Education Trust would allow American Indians to carry on an understanding of traditional cultures to their own people—knowledge that might otherwise be lost across the generations. In this way the future would serve as a link to the past. American Indian access would be provided to preserved sites, allowing them visitation rights to conduct ceremonies and other activities as they see fit, further maintaining and enhancing their connection to the land..."

This totally, non Indian viewpoint of American Indian culture is an insult to every American Indian that has ties to this sacred area. Removing the stones, and 'allowing' American Indians to have access is not preserving our culture. The tie is also to the actual place where the stone was laid. If you move your eye to the middle of your hand, will it still be an eye? These sacred places are where they are at for a reason. Your eye is where it is at for a reason.

4.12 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The report entitled: Traditional Cultural Qualities of Sites in the Proposed Coteau Mine Expansion Area (Permit Areas D, H and the West Permit Area) Compiled by Sherri Deaver, Ethnoscience, Inc. for The Coteau Properties Company, page 4.7 states: "The tribal cultural representatives regard continued access to these sites as critical to their continuation as a people. (R. Little Owl 2/1/2001)."

In other words, the Mandan, Hidatsa, Arikara, Sioux, and Assiniboine people will no longer continue as a people if the area is destroyed due to their beliefs and ties to the sacred places and ancestors in the area. For Coteau Properties Company to continue to pursue approval for the destruction of this entire geophysical area, knowing from their own experts that such activities will destroy the tribes, constitutes an act of genocide and is a violation of basic human rights. This is ethnic cleansing at its worst because it is for profit only.

RECOMMENDATION

Alternative B, No Action, is recommended. Although there is no quantifiable measure of the effects on the Cultural Resources in Alternative B, the surface must not be disturbed and no coal should be mined.


Charmaine White Face, Coordinator
Defenders of the Black Hills



Clean Water Action

Coal Team, Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, ND 58601

Re: Comments on the DEIS for leasing Federal coal in Mercer County, North Dakota

Clean Water Action would like to express their concern on the proposed expansion of mining in Mercer County, North Dakota.

On page 32 under section 4.4 Water Resources/Groundwater mentions degradation of water quality 1-2 miles from the proposed mine sites. We are concerned this will impact the water quality in the surrounding rivers, and Lake Sakakawea. TMDL's for these waters should be investigated to note the effects mining would have on exceeding water quality standards under the Clean Water Act.

Also on page 32 under the same headings it is mentioned that 12 private wells will be affected, and the company will have to provide an alternate source of drinking water. It is known that all of our water is connected, including groundwater. The movement of groundwater should be studied to note the impacts on other wells, in addition to Lake Sakakawea and the surrounding rivers.

Page 33 mentions wetlands will be removed during mining. Under the Clean Water Act wetlands cannot be removed without replacing them. Wetlands play an important role of water filtration, the control of flooding, and habitat. It is important to make sure this role is maintained in the area.

Finally, the cultural impacts on the surrounding tribes are enormous. Their artifacts should not be destroyed, as they do not belong to the state or federal government.

Thank you for taking these comments into consideration.

Jessica Ley
Clean Water Action
118 N Broadway #316
Fargo, ND 58102
701.235.5431



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 16TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

JUL 14 2004



Re: 8EPR-N

Douglas J. Burger, Manager
North Dakota Field Office
Bureau of Land Management
2933 Third Avenue West
Dickinson, ND 58601

Re: Coteau Coal Lease Application - Freedom
Mine Expansion DEIS, # 0040186

Dear Mr. Burger:

The Environmental Protection Agency -- Region 8 has reviewed the *Draft Environmental Impact Statement for Coteau Properties Federal Coal Lease Application for West Mine Area, Freedom Mine*. The DEIS assesses the environmental impacts the proposed leasing of 5,571 acres of federal coal in the proposed 17,000-acre expansion -- West Mine Area (WMA) of the Freedom mine. The WMA expansion increases the life of the Freedom mine until 2030. The surface rights above the federal coal are privately owned.

We submit the following comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA's main concerns are impacts to air quality and to peat and fen type wetlands which are unique and irreplaceable.

Air Quality

1. We recommend that the FEIS disclose that emissions from power plants have been identified as a significant source of atmospheric mercury. EPA's web site at <http://www.epa.gov/air/mercury.html> has several reports summarizing the environmental impacts of mercury, primarily bioaccumulation in the aquatic food web. The relative levels of mercury emitted as a result of combustion, varies depending on the chemistry of particular coal/lignite deposits and the type of air pollution controls. For purposes of the FEIS, we recommend including any existing information on mercury emissions from the plants burning coal from the Freedom mine and/or in this area of North Dakota. The FEIS should also include a discussion of the current research that is under way to evaluate mercury emissions by the University of North Dakota (UND) or industry. We understand that UND will be studying the injection chlorine into lignite boilers at the Leland Olds and Antelope Valley plants to determine if chlorine addition changes

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mercury removal and/or emissions. The University has some information on mercury emissions from the coal mining industry at <http://www.cemr.and.nodak.edu/cemr>.

2. On page 18 of the DEIS, the first paragraph under "North Dakota and National Ambient Air Quality Standards:" should be revised to delete the references to NAAQS and NDAAQS as absolute upper limits. Alternative wording could be, "North Dakota Ambient Air Quality Standards (NDAAQS) and National Ambient Air Quality Standards (NAAQS) are health-based criteria for the maximum acceptable concentrations of air pollutants at all locations to which the public has access."

Wetlands

3. The DEIS on page 23 mentions five seeps which have created fens or peat wetlands which will be removed as a result of the mine expansion. Fens and/or peatlands are very rare in the Rocky Mountain and plains regions, particularly in dry areas such as western North Dakota. Fens/peatlands are wetlands that have primarily organic soil material (i.e., peats or muck) and are created in areas where groundwater discharges to the surface under constant chemical and flow conditions. Because the rate of plant growth exceeds that of decomposition, organic soils form very slowly by accumulation of plant debris. Fens in the Rocky Mountains are believed to develop or accumulate at rates ranging from 4.3 to 16.2 inches per thousand years.

Fen-type wetlands have been designated by the Fish and Wildlife Service (USFWS) as Resource Category 1 with respect to the USFWS Mitigation Policy. The mitigation goal of Resource Category 1 is *no loss of existing habitat value* and makes the protection of fens a high priority. All peatland type wetlands such as fens in the plains are rare and irreplaceable resources. The FEIS needs to describe how these rare and high-value wetlands will be avoided and protected, including the hydrogeologic conditions. To our knowledge, it is not possible to mitigate impacts to these types of wetlands by attempting replacement. Therefore avoidance of any impact is the preferred mitigation technique. Mitigation efforts would also need to include preserving the wetlands' hydrologic conditions (upwelling ground water). We recommend that the BLM take every measure possible to avoid impacts to these high-value wetlands and consider the feasibility of excluding the coal underneath the fen and peatland wetlands from leasing. The excluded areas should also include the groundwater systems feeding the fen/peatlands.

4. EPA would like to find out more about these fen/peatland wetlands before the final EIS is prepared. Please send us any wetlands delineation studies, vegetation and biological surveys, etc. prepared for this area and/or WMA expansion. We would also like to discuss the peatland wetlands resources and any potential mitigation measures in a telephone conference sometime in the near future. We will call to make the arrangements. The information and discussions will help us assess conditions and values of the wetlands and the sustainability of the wetland systems.
5. Fens only develop when unique hydrogeologic conditions exist. The most critical condition for preserving fens is groundwater discharge and histosolic conditions. In some cases, fens have been destroyed by a minor decline in the potentiometric surface (head)

for the aquifer. This can happen when the surrounding topography is changed through mining or when the underlying aquifer is dewatered changing the relative heads between the fen and the lower aquifers. The FEIS should also more closely evaluate the hydrologic conditions that have created these unique wetlands and any aspect of the proposed mine expansion that would disrupt these conditions.

6. The rule of thumb defining fens as peat lands with more than 16 in. of organic material (mentioned on page 23 of DEIS) may not be appropriate for dry areas such as the WMA. If the main factor for classifying the four wetlands identified as peatlands instead of fens was depth of organic material, there may be other factors that would still indicate that these wetlands are fens.

Based on the procedures EPA uses to evaluate the potential effects of proposed actions and the adequacy of the information in the DEIS, the proposed alternative will be listed in the Federal Register in the category EC-2 (EC - Environmental Concerns, 2 - Insufficient Information). This rating means that based on the available information, the review identified environmental impacts that should be avoided in order to fully protect the environment and the DEIS does not contain sufficient information to thoroughly assess environmental impacts that should be avoided to fully protect the environment.

We appreciate your consideration of our comments. If you have any further questions, please contact Dana Allen of my staff at (303) 312-6870. Again, we would appreciate the opportunity to discuss these concerns with you. We will call you in the near future to arrange a conference call.

Sincerely,



Larry Syboda
Director, NEPA Program
Office of Ecosystems Protection
and Remediation

Enclosure

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State of
North Dakota
Office of the Governor

John Hoeven
Governor

July 20, 2004



Coal Team
Bureau of Land Management
North Dakota Field Office
2933 Third Avenue West
Dickinson, North Dakota 58601

Dear Sirs:

Thank you for requesting my comments concerning the April 20, 2004 Draft Environmental Impact Statement (DEIS #23-04) for The Coteau Properties Company Federal Coal Lease Application NDM 91535, to lease approximately 90 million tons of Federal coal at the Freedom Mine. This is an important action that deserves serious consideration.

Our review of the DEIS indicates you have conducted a thorough evaluation of impacts on cultural resources under different scenarios. Preservation of the rich heritage of North Dakota's Native Americans is a necessary and valuable component in our state's energy resource development. It appears that plans developed by The Coteau Properties Company to avoid and preserve sites will serve that purpose. In addition, development of an Indian Cultural Education Trust, coordinated through legislation sponsored by The State Board of University and School Lands in 2003, will assure long-term protection for, and perpetual Native American access to, sites considered especially valuable or sensitive.

Although the DEIS provides a detailed analysis of cultural resources, the socio-economic impacts of different leasing scenarios was barely addressed. These impacts are tremendous, and must be considered in much greater detail as you prepare the Final Environmental Impact Statement.

Approximately 90 million tons of lignite is being considered for leasing. This would directly generate \$33,750,000 in coal severance tax at current rates. This is distributed between the state government and schools, cities and the county government in Mercer County. Obviously, the loss of this amount of tax revenue would be a major negative impact.

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Coal Team
July 20, 2004
Page 2

The Coteau Properties Company is a major purchaser of goods and services in North Dakota. For example, in 2003 their purchases generated over a million dollars in sales and use tax for North Dakota's citizens.

The Freedom Mine is North Dakota's largest coal mine, employing hundreds of people. According to published research by North Dakota State University¹, for every direct job in the lignite industry, four+ jobs are required for indirect support. The impact of the Freedom Mine may be well over 1,000 jobs, and the families that depend on these jobs.

Because the Great Plains Synfuels Plant requires lignite coal as a feedstock, any decisions affecting that feedstock supply, such as the leasing of 90 million tons of lignite, have a direct bearing on future production at this plant. This facility plays a key role in North Dakota's energy economy, so your analysis must consider impacts here as well.

Just as meaningful as the protection of cultural resources and Native American heritage are the jobs and economic activity generated by lignite mining in western North Dakota. I urge you to give consideration to these factors as you prepare the Final Environmental Impact Statement for this action of such importance to our state.

Sincerely,

John Hoeven
Governor

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